



Ninety-Eighth Legislature - First Session - 2003  
**Introducer's Statement of Intent**  
**LB 364**

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**Chairperson:** Kermit A. Brashear  
**Committee:** Judiciary  
**Date of Hearing:** February 27, 2003

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

LB 364 amends sections 29-2315.01, 29-2316, 29-2317, 29-2319, 29-2320, and 29-2321 relating to appeals in a criminal case brought by a prosecuting attorney. The bill clarifies that a city attorney has the same authority as a county attorney to bring appeals.

Currently, a county attorney has authority to appeal a decision of the trial court under Section 29-2315.01. That statute does not reference a city attorney. The city attorney's authority is under Sections 29-2317 to 29-2319.

The bill defines "prosecuting attorney" to include county attorney, city attorney or designated attorney and uses "prosecuting attorney" throughout the sections amended. Section 29-2319 is amended to refer to any ruling of the district court rather than only an order affirming the final order of the trial court.

LB 364 is in response to a recent Supreme Court ruling in *State v. Jones*, 264 Neb. 812 (2002), where the City of Lincoln, on behalf of the state, challenged an order from the District Court which reversed a county court order convicting a defendant of violating the municipal code. The Court ruled that the city had no statutory right to appeal the order of the district court.

It appears that city attorneys only have the authority to appeal from county to district court and can only take exception to the district court's ruling if it affirms the trial court order. If a city attorney loses at county court and loses at district court, the city attorney can appeal to the Supreme Court. But, if the city attorney wins at county court and but that decision is reversed by the district court, the city attorney cannot appeal that ruling. County attorneys have this authority.

LB 364 would provide the city attorney with authority to appeal similar to the county attorney's authority.

**Principal Introducer:**

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**Senator Mick Mines**